

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DEBRA BAREFIELD,) Case No.: 1:21-cv-0613 NONE JLT
Plaintiff,)
v.) ORDER DENYING PLAINTIFF'S MOTION TO
HBC MORTGAGE SERVICES, INC., et al.,) AMEND AS MOOT
Defendants.) (Doc. 22)
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)

Plaintiff seeks leave to amend the name of the defendant she identified as “U.S. Bank Trust, N.A.” (Doc. 22.) She asserts that after the summons were issued, she learned the defendant “was incorrectly named in the complaint,” and “[t]he correct name of this Defendant is ‘U.S. Bank Trust, N.A., as Trustee for LSF10 Master Participation Trust.’” (*Id.* at 2.) Plaintiff successfully served the summons and First Amended Complaint on the defendant, which responded to the complaint by filing a motion to dismiss. (Docs. 30, 33.) At that time, the defendant also indicated that “U.S. Bank Trust, N.A., as Trustee for LSF10 Master Participation Trust” was “erroneously sued as U.S. Bank, N.A.” (Doc. 33 at 2.)

Notably, “[m]inor errors in the name of a defendant, through misspelling or other error do not render the summons substantively defective when the summons and complaint are actually received by the defendant and the defendant is not misled by the error.” *East Bay Mun. Util. Dist. v. Nat'l Union Fire Ins. Co of Pittsburgh, PA*, 2009 WL 975442 at *3 (N.D. Cal. Apr. 10, 2009); see also

1 *Cervantes v. Zimmerman*, 2019 WL 2413508 at *15 (S.D. Cal. July 29, 2019) (finding an amendment
2 was not necessary to cure errors in a defendant's name where the defendant's correct identity was not
3 disputed). Because the identified defendant was served with the summons and First Amended
4 Complaint and was not mislead by any error in the company name or trustee status, no amendment to
5 the complaint or issued summons is necessary or required. Accordingly, the Court **ORDERS**:
6 Plaintiff's motion to amend the name of a defendant (Doc. 22) is denied as **MOOT**.

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8 IT IS SO ORDERED.

9 Dated: October 4, 2021

/s/ **Jennifer L. Thurston**

10 CHIEF UNITED STATES MAGISTRATE JUDGE

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